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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/886,419      Confirmation No.: 7642  
Applicant(s): Scott  
Filed: 06/21/2001  
Art Unit: 2174  
Examiner: Pesin, Boris M.  
Title: Method Of Selecting An Object

Attorney Docket No.: 857.0016.U1(US)  
Customer No.: 29,683

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Petition To Withdraw Holding of Abandonment Based on Failure  
To Receive Office Action (37 C.F.R. 1.181(a))  
MPEP 711.03(c)(I)(A)

Sir:

This is in response to the Notice of Abandonment mailed 01/08/2008 in regard to the above-identified patent application. Applicant's attorney hereby petitions under 37 C.F.R. 1.181(a) and MPEP 711.03(c)(I)(A) to withdraw the holding of abandonment based on the failure to receive the office action mailed 12/08/2006. In accordance with MPEP 711.03(c)(I) it is understood that no fee is necessary. However, if a fee is necessary for this petition, please charge deposit account 50-1924 for that fee.

**Facts**

1. On January 10, 2008 applicant's attorney received the Notice of Abandonment mailed January 8, 2008. The Notice indicated that applicant failed to respond to the Office

letter mailed on 08 December 2006. The Notice of abandonment indicated that the Office letter mailed 08 December 2006 was returned to the USPTO as undeliverable.

2. Applicant's attorney never received the Office letter mailed 08 December 2006 before the Notice of Abandonment was mailed. In accordance with MPEP 711.03(c)(I)(A) applicant's attorney hereby attests to the fact that a search of the file jacket and docket records indicates that the Office communication (the Office letter mailed 08 December 2006) was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed is attached to this petition as Exhibit A. The attached docket printout comprises a printout of all docket items mailed to Applicant's Attorney by the USPTO with a mailing date of 12/08/2006 which required a response. As can be seen from the docket printout, no entry was made for application No. 09/886,419 (Attorney Docket No. 857.0016.U1(US)).
3. Upon receipt of the Notice of Abandonment mailed 01/08/2008 applicant's attorney reviewed the USPTO PAIR system which has an entry on 12-12-2006 "RETMAIL Mail returned to USPTO as undelivered" (see attached Exhibit B and Item 7 in the Notice of Abandonment). It appears the USPTO did not properly position the mail in the envelope so the address was visible through the window of the envelope (see attached as Exhibit C).

### **Relief Requested**

In accordance with MPEP 711.03(c)(I)(A), the Commissioner is requested to:

1. Withdraw the holding of abandonment; and
2. Issue a new office action resetting the period for response.

This petition includes the following:

- A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- Copies of documentary evidence (Exhibits A-C).
- In accordance with MPEP 711.03(II)(G) it is understood that a terminal disclaimer is not required.

Favorable consideration and allowance is respectfully requested. Should any unresolved issue remain, the examiner is invited to call applicant's attorney at the telephone number indicated below.

Appl. No.: 09/886,419  
Reply to Office Action of: 01/08/2008

Respectfully submitted,

Mark F. Harrington 1/11/08  
Mark F. Harrington (Reg. No. 31,686) Date

Customer No.: 29683  
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Shelton, CT 06484-6212  
203-925-9400

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date shown below in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

1-11-08 Ann O'Brien Towse  
Date Name of Person Making Deposit

Appl. No.: 09/886,419  
Reply to Office Action of: 01/08/2008

## Exhibit A

Case Number	Sub Case	Country	Action Type	Base Date	Computer Gene	Status	Response Date
019B.0020	U1	US	US-Missing Parts	08-Dec-2006	No	Pending	24-Jan-2007
884A.0154	U1	US	Information Disclos	08-Dec-2006	No	Pending	08-Dec-2006
909A.0192	U1	US	US-Non-Complianc	08-Dec-2006	No	Granted	20-Dec-2006



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## Exhibit B

09/886,419 Method of selecting an object

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2008::15:03:40

**This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.**

### Available Documents

Mail Room Date	Document Code	Document Description	Document Category	Page Count
12-12-2006	RETMAIL	Mail returned to USPTO as undelivered	PROSECUTION	14
12-08-2006	CTFR	Final Rejection	PROSECUTION	12
12-08-2006	892	List of references cited by examiner	PROSECUTION	1
12-08-2006	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
12-08-2006	FWCLM	Index of Claims	PROSECUTION	1
09-06-2006	A...	Amendment - After Non-Final Rejection	PROSECUTION	1
09-06-2006	CLM	Claims	PROSECUTION	6
09-06-2006	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	5
09-06-2006	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
09-06-2006	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
07-26-2006	N570	Communication - Re: Power of Attorney (PTOL-308)	PROSECUTION	2
07-13-2006	PA..	Power of Attorney	PROSECUTION	2
05-02-2006	CTNF	Non-Final Rejection	PROSECUTION	17
05-02-2006	892	List of references cited by examiner	PRIOR ART	1
05-02-2006	FWCLM	Index of Claims	PROSECUTION	1
05-02-2006	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
02-09-2006	A...	Amendment - After Non-Final Rejection	PROSECUTION	1
02-09-2006	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	8
02-09-2006	XT/	Extension of Time	PROSECUTION	1
02-09-2006	TRTC	Transmittal to TC	PROSECUTION	2
10-06-2005	CTNF	Non-Final Rejection	PROSECUTION	17
10-06-2005	892	List of references cited by examiner	PRIOR ART	1
10-06-2005	FWCLM	Index of Claims	PROSECUTION	1
10-06-2005	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
07-11-2005	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	PROSECUTION	3
07-11-2005	CLM	Claims	PROSECUTION	7
07-11-2005	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	2
07-11-2005	RCEX	Request for Continued Examination (RCE)	PROSECUTION	1
07-11-2005	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
06-21-2005	EXIN	Examiner Interview Summary Record (PTOL - 413)	PROSECUTION	4
04-06-2005	CTFR	Final Rejection	PROSECUTION	17
04-06-2005	1449	List of References cited by applicant and considered by examiner	PRIOR ART	2
04-06-2005	892	List of references cited by examiner	PRIOR ART	1
04-06-2005	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
04-06-2005	FWCLM	Index of Claims	PROSECUTION	1
12-30-2004	A...	Amendment - After Non-Final Rejection	PROSECUTION	1



12-30-2004	CLM	Claims	PROSECUTION	8
12-30-2004	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	11
12-30-2004	136A	Authorization for Extension of Time all replies	PROSECUTION	2
12-30-2004	XT/	Extension of Time	PROSECUTION	1
12-30-2004	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
08-26-2004	CTNF	Non-Final Rejection	PROSECUTION	16
08-26-2004	892	List of references cited by examiner	PRIOR ART	1
08-26-2004	BIB	Bibliographic Data Sheet	PROSECUTION	1
08-26-2004	FWCLM	Index of Claims	PROSECUTION	1
08-26-2004	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
05-10-2004	A...	Amendment - After Non-Final Rejection	PROSECUTION	1
05-10-2004	SPEC	Specification	PROSECUTION	1
05-10-2004	CLM	Claims	PROSECUTION	8
05-10-2004	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	6
05-10-2004	TRTC	Transmittal to TC	PROSECUTION	2
05-10-2004	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
02-05-2004	CTNF	Non-Final Rejection	PROSECUTION	12
02-05-2004	892	List of references cited by examiner	PRIOR ART	1
02-05-2004	1449	List of References cited by applicant and considered by examiner	PRIOR ART	2
06-06-2003	STATUS.LET	Request for status of Application	PROSECUTION	1
06-06-2003	IDS	Information Disclosure Statement (IDS) Filed	PROSECUTION	3
09-04-2001	PEFR	Applicant Response to Pre-Exam Formalities Notice	PROSECUTION	3
09-04-2001	OATH	Oath or Declaration filed	PROSECUTION	2
09-04-2001	C.AD	Change of Address	PROSECUTION	1
08-20-2001	FRPR	Certified Copy of Foreign Priority Application	PROSECUTION	40
08-14-2001	CTMS	Miscellaneous Action with SSP	PROSECUTION	1
06-21-2001	TRNA	Transmittal of New Application	AS FILED	2
06-21-2001	SPEC	Specification	AS FILED	16
06-21-2001	CLM	Claims	AS FILED	4
06-21-2001	ABST	Abstract	AS FILED	1
06-21-2001	DRW	Drawings-only black and white line drawings	AS FILED	9
06-21-2001	IIFW	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1
06-21-2001	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
06-21-2001	FWCLM	Index of Claims	PROSECUTION	1
06-21-2001	TRNA	Transmittal of New Application	PROSECUTION	2
06-21-2001	DRW	Drawings-only black and white line drawings	PROSECUTION	9
06-21-2001	SPEC	Specification	PROSECUTION	16
06-21-2001	CLM	Claims	PROSECUTION	4
06-21-2001	ABST	Abstract	PROSECUTION	1
06-21-2001	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
06-21-2001	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
06-21-2001	WCLM	Claims Worksheet (PTO-2022)	PROSECUTION	1
06-21-2001	IDS	Information Disclosure Statement (IDS)	PROSECUTION	2

		Filed		
06-21-2001	NPL	NPL Documents	PRIOR ART	1
06-21-2001	NPL	NPL Documents	PRIOR ART	1
06-21-2001	NPL	NPL Documents	PRIOR ART	4
06-21-2001	FOR	Foreign Reference	PRIOR ART	14
06-21-2001	FOR	Foreign Reference	PRIOR ART	56
06-21-2001	FOR	Foreign Reference	PRIOR ART	10

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**Close Window**

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Exhibit C

P.O. Box 1450

Alexandria, VA 22313-1450

If Undeliverable Return in Ten Days

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE, \$300

AN EQUAL OPPORTUNITY EMPLOYER

